

### **Proof of Title, Right or Interest (TRI)**

Attached is a copy of a 1923 Act of Legislature that grants the Auburn Water District with jurisdiction to prevent pollution of the water of Lake Auburn and preserve the purity of said water (Note Sec. 6).

Also included are the Auburn Water District By-Laws for Protection of Lake Auburn.

ACTS AND RESOLVES

AS PASSED BY THE

Eighty-first Legislature

OF THE

STATE OF MAINE

1923

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Private and Special Laws

OF THE

STATE OF MAINE

As Passed by the Eighty-First  
Legislature

1923

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All expenses of said court including blank books of record, dockets and blanks necessary for use of said court, shall be paid from the treasury of the county of Aroostook. All criminal or civil cases may be adjourned to the county court house in said Caribou at the discretion of the judge of said court.

Approved March 16, 1923.

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## Chapter 60.

An Act to Incorporate the Auburn Water District.

*Be it enacted by the People of the State of Maine, as follows:*

Sec. 1. Territorial limits; name; purpose. The following territory and the people therein, namely: All the territory and people constituting the city of Auburn except that portion of said city and the people therein within the following boundaries, to wit: Beginning at the junction of the Holland road, so-called, with the South River road, so-called; thence westerly by said Holland road to its junction with the Old Danville road, so-called; thence southerly by said Old Danville road to its junction with the Pownal road, so-called; thence southerly by said Pownal road to the Durham town line; thence northeasterly by said Durham town line to the Androscoggin river; thence northerly by said Androscoggin river to a point opposite said Holland road; thence westerly to the junction of said Holland road and said South River road at the point of beginning; shall constitute a public municipal corporation under the name of the Auburn Water District, for the purpose of supplying the inhabitants of said district and of contiguous territory not already served, with pure water for domestic, sanitary and municipal purposes. All incidental rights, powers and privileges necessary to the accomplishment of the main object herein set forth are granted to the corporation hereby created.

Sec. 2. Title to all property of Auburn Water Commissioners and city of Auburn to vest in Auburn Water District. At the time this act takes effect, the title of the Auburn Water Commissioners, the corporation heretofore charged with the control and management of the water system in said district, and the title of the city of Auburn, to the entire plant, property and franchises, rights and privileges, including all lands, buildings, waters, water rights, dams, reservoirs, pumping-stations, pipes, aqueducts, machinery, fixtures, hydrants, tools, apparatus and appliances, used or capable of being used for the purpose of maintaining a public water supply, together with all sinking funds, current funds, moneys, bills and accounts receivable, and all books, plans and documents shall vest in and become the property of said Auburn Water District. Said city of Auburn and said Auburn Water Commissioners shall each make, execute and de-

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liver to said Auburn Water District, within thirty days after this act takes effect, such deeds and conveyances of real property and rights and interests therein, and such transfer, assignment and delivery of personal property, funds, moneys, bills and accounts receivable, books, plans and documents, as shall effectuate the purpose and intention of this section.

Sec. 3. Auburn Water District to assume all liabilities of old corporations; obligations of bonds not impaired. As consideration for the transfer and conveyance of the property and rights described in the foregoing section, said Auburn Water District shall assume all the existing indebtedness and all liability of every nature of the city of Auburn and of the Auburn Water Commissioners incurred prior to the time when this act takes effect in the establishment, maintenance, operation, extension and improvement of the present water system in the city of Auburn, and all outstanding bonds issued for any and all of said purposes, whether issued by said city of Auburn or by said Auburn Water Commissioners, shall be and become legal and binding obligations of said Auburn Water District, but nothing herein shall be construed to impair the obligation of said bonds or the rights of the holders thereof. As further consideration for the transfer and conveyance of the property and rights described in the foregoing section, the amount which the city of Auburn shall be required to pay to said Auburn Water District for water for all municipal purposes is hereby limited and fixed at the sum of three thousand dollars per year. All valid contracts existing between said Auburn Water Commissioners and any person, firm or corporation, shall be assumed and carried out by said Auburn Water District.

Sec. 4. Trustees; mayor of Auburn a trustee ex-officio; present trustees to serve out terms; trustees to be elected by city council; vacancies. All the affairs of said Auburn Water District shall be managed by a board of seven trustees, which in the first instance shall be the members of the Auburn Water Commissioners, including the mayor of the city of Auburn holding office at the time this act takes effect. The six trustees, exclusive of the mayor of the city of Auburn, shall each hold office according to the respective terms of office which they now hold as members of the Auburn Water Commissioners, and upon the expiration of said term of office one trustee shall thereafterwards be elected annually in the month of March by the city council of the city of Auburn for a term of six years. The mayor of the city of Auburn shall by virtue of his office be a trustee of said Auburn Water District during his term as mayor. The city council of the city of Auburn may at any time fill any vacancy in said board of trustees, exclusive of the mayor of said city, caused by death, resignation or otherwise, or in the first instance by the refusal to act of any member or members of the Auburn Water Commissioners above denomi-

nated; in such case, however, the trustee so appointed shall hold office for the unexpired term of the trustee whose office is made vacant. From and after the organization of the board of trustees as above provided, and the transfer to said Auburn Water District of the water system as provided in section two of this act, the rights and powers of the Auburn Water Commissioners to the control and management of said water system shall cease and terminate.

Sec. 5. Organization of board; seal; by-laws; trustees to elect superintendent, treasurer and clerk, and employ other agents, etc.; annual report. Said board of trustees shall organize by electing one of their number president at a meeting to be held within thirty days after this act takes effect, and annually thereafter in the month of March subsequent to the appointment by the city council of the city of Auburn of one trustee as herein provided. Said trustees shall adopt a corporate seal and such by-laws as are necessary for their own convenience and the proper management of the affairs of said Auburn Water District. Said trustees shall choose annually a superintendent, treasurer and clerk, and employ from time to time such other officers, agents and servants as they deem necessary. Said officers, agents and servants shall perform such duties as shall be designated by the trustees, and be subject to removal by the trustees at all times. The treasurer and clerk shall give such bond as the trustees may require. Said trustees shall annually, in the month of March, compile and print a statement of the condition of the property and finances of said district, with an account of all receipts and expenditures.

Sec. 6. Powers; municipal court of Auburn given jurisdiction to enforce by-laws. Said Auburn Water District shall have power to adopt by-laws, not inconsistent with the general laws of the state, to prevent pollution of the water of Lake Auburn and to preserve the purity of said water, and may prescribe penalties for the violation thereof, which said by-laws shall have the same force and effect as municipal ordinances, and the municipal court of the city of Auburn shall have jurisdiction of violations thereof. Said Auburn Water District shall have power and authority to complain by bill in equity to the supreme judicial court to enjoin, prevent or restrain any persons, firms or corporations from polluting the water of Lake Auburn, provided such pollution shall tend to corrupt or impair the quality of the water of said Lake Auburn for domestic purposes, or render it injurious to health.

Sec. 7. Right of eminent domain conferred. The said Auburn Water District, for the purposes of its incorporation, is hereby authorized to take and hold, as for public uses, by purchase, eminent domain, or otherwise, any land or interest therein, or water rights necessary for erecting and

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maintaining dams, for collecting, storing and holding water, for flowage, for power for pumping its water supply through its mains, for reservoirs, for guarding against pollution and for preserving the purity of the water and water shed, for laying and maintaining pipes, aqueducts and other structures, for taking, distributing, discharging and disposing of water and for rights of way or roadways to its sources of supply, its dams, power and pumping stations, reservoirs, mains, pipes, aqueducts, structures and lands.

Sec. 8. Plans of location to be filed in registry of deeds; may correct locations and file new descriptions; notice to be given of all entries. In exercising from time to time the right of eminent domain conferred upon it by law, the said Auburn Water District shall file in the office of the county commissioners of Androscoggin county and cause to be recorded in the registry of deeds in said county plans of the location of all lands or interests therein or water rights, to be taken, with an appropriate description and the names of the owners thereof, if known. When for any reason the district fails to acquire property which it is authorized to take and which is described in such location, or if the location so recorded is defective and uncertain, it may at any time correct and perfect such location and file a new description thereof; and in such case the district is liable in damages only for property for which the owner had not previously been paid, to be assessed as of the time of the original taking, and the district shall not be liable for any acts which would have been justified if the original taking had been lawful. No entry shall be made on any private lands, except to make surveys, until the expiration of ten days from such filing, whereupon possession may be had of all said lands or interests therein or water rights so taken, but title thereto shall not vest in said district until payment therefor.

Sec. 9. Assessment of damages by county commissioners; procedure on appeals. If any person sustaining damages by any taking as aforesaid shall not agree with said district upon the sum to be paid therefor, either party, upon petition to the county commissioners of Androscoggin county, may have said damages assessed by them; the procedure and all subsequent proceedings and right of appeal thereon shall be had under the same restrictions, conditions and limitations as are or may be by law prescribed in the case of damages by the laying out of highways.

Sec. 10. Authorized to erect and maintain pumping stations, dams, etc. Said Auburn Water District is hereby authorized to erect, construct and maintain all power and pumping stations, dams, reservoirs, mains, aqueducts, structures, roadways and fixtures necessary and convenient for its corporate purposes.

Sec. 11. Authorized to lay pipes in streets. Said Auburn Water District is hereby authorized to lay in and through the streets, roads, ways and highways of the city of Auburn and across private lands therein, and to maintain, repair and replace all such pipes, mains, aqueducts and fixtures as may be necessary and convenient for its corporate purposes; and whenever said district shall lay any pipe, aqueduct or main in any street, road or way it shall cause the same to be done with as little obstruction as practicable to the public travel, and shall at its own expense without unnecessary delay cause the earth and pavement removed by it to be replaced in proper condition.

Sec. 12. Crossings of railroad regulated. In case of any crossing of any railroad, unless consent is given by the company owning or operating such railroad as to place, manner and conditions of the crossing, within thirty days after such consent is requested by said district, the public utilities commission shall determine the place, manner and conditions of such crossing; and all work within the limits of such railroad location shall be done under the supervision and to the satisfaction of such railroad company, but at the expense of the district.

Sec. 13. May issue bonds and borrow money and issue notes; bonds and notes legal investment for savings banks. The Auburn Water District is hereby authorized, with the permission of the city council of the city of Auburn first obtained, and under the further permission and direction of the public utilities commission, to issue bonds for the purpose of paying or refunding the indebtedness assumed by said district in the acquisition of the property and rights of the Auburn Water Commissioners and the city of Auburn in the creation of said district, and from time to time for the further purpose of the purchase or acquisition of other property and rights, of making extensions, additions and improvements to its water system and to the existing sources of water supply and of securing additional sources of such water supply. Said Auburn Water District is also authorized to borrow money for temporary purposes and to issue therefor the interest-bearing negotiable notes of the district, which said notes shall be payable not later than one year from the date thereof. Said notes and bonds shall be legal obligations of said Auburn Water District, which is hereby declared to be a quasi-municipal corporation within the meaning of section one hundred and five, chapter fifty-one, of the revised statutes, and all the provisions of said section and acts amendatory thereof shall be applicable thereto. Said notes and bonds shall be legal investments for savings banks. Every issue of bonds shall be payable within a term of thirty years.

Sec. 14. Bonds, how payable; sinking fund may be created. Bonds

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issued by said Auburn Water District under authority of this act shall be payable in such annual installments as will extinguish each issue in thirty years from its date; and the amount of such annual installment in any year shall not be less than the amount of the principal of said issue payable in any subsequent year; or in lieu of such provision for serial payments, said Auburn Water District shall create a sinking fund by setting aside annually from its income such amount as shall be sufficient with interest accumulations to extinguish and pay at maturity any issue of bonds which contain no provision for serial payment as aforesaid. The money so set aside shall be devoted to the purchase or retirement of the obligations of said district, or invested in securities legal for savings banks in the state of Maine.

Sec. 15. Property exempt from taxation. The property, rights and franchises of said district shall be forever exempt from taxation.

Sec. 16. Rates, how established and paid. All individuals, firms and corporations, other than the city of Auburn, shall pay to the district the rates established by the board of trustees for the service and water used by them. Said rates shall be uniform within the territory supplied by the district and subject to the approval of the public utilities commission.

Sec. 17. Local referendum provided for; form of ballots. This act shall take effect when approved by a majority of all legal voters of the city of Auburn voting at a special meeting to be held on the second Monday in September in the year nineteen hundred and twenty-three. Said meeting shall be called, held and conducted and the results thereof determined in the manner provided for municipal elections in said city of Auburn. The city clerk of the city of Auburn shall prepare suitable ballots upon which shall be printed the following question: "Shall the act to incorporate the Auburn Water District, enacted by the people of Maine at the eighty-first legislature in the year nineteen hundred and twenty-three, be accepted?" with the words

Yes			No	
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printed and arranged thereunder substantially as printed herein. The voters shall indicate their choice by a cross placed in the appropriate square.

Sec. 18. Act to take effect for purposes of election 90 days after adjournment of legislature. This act shall take effect in ninety days after the final adjournment of the legislature, so far as necessary to empower the calling and holding of the special meeting authorized in section seventeen herein.

Approved March 16, 1923.

AUBURN WATER DISTRICT

By-Laws for Protection of Lake Auburn

WHEREAS, the Auburn Water District was granted a legislative Charter by Chapter 60 of the Private and Special Laws of 1923, as amended, and under the terms of its Charter, the said Auburn Water District was granted the power “to adopt by-laws, not inconsistent with the general laws of the state, to prevent pollution of the water of Lake Auburn and to preserve the purity of said water, and may prescribe penalties for the violation thereof, which said by-laws shall have the same force and effect as municipal ordinances”; and

WHEREAS, the said Auburn Water District was also granted under its Charter the “power and authority” to bring legal proceedings “to enjoin, prevent or restrain any persons, firms or corporations from polluting the water of Lake Auburn, provided such pollution shall tend to corrupt or impair the quality of the water of said Lake Auburn for domestic purposes, or render it injurious to health”; and

WHEREAS, the Auburn Water District has the further duty under the terms of its said Charter to provide pure and potable drinking water to persons within the city of Auburn; and

WHEREAS, Lake Auburn is the public drinking water supply for water consumers in the City of Auburn and also (pursuant to Chapter 153 of the Laws of 1899) is the public drinking water supply for the City of Lewiston; and

WHEREAS, pursuant to 22 M.R.S.A. §2647, “Any water utility...is authorized to take reasonable steps to protect a public water source from pollution”; and

WHEREAS, the United States Environmental Protection Agency, pursuant to the Safe Drinking Water act, promulgated rules in June of 1989 calling for the filtration of all surface water supplies that cannot meet stringent criteria with respect to purity; and

WHEREAS, the Auburn Water District and City of Lewiston have jointly engaged the services of environmental consultants to consider appropriate measures for the protection of the purity of the water in Lake Auburn, and to secure an exception from the aforesaid filtration requirements in order to avoid substantial costs to the water ratepayers in the communities of Lewiston and Auburn; and

WHEREAS, the Trustees of the Auburn Water District conducted a public hearing on March 20, 1991, and another public hearing on July 17, 1991, to consider the possibility of developing and adopting regulations and restrictions to protect the purity of the water in Lake Auburn and have received and reviewed both oral and written comment thereon; and

WHEREAS, the Trustees of the Auburn Water District have been advised by their consultants that water protection control measures are necessary to prevent pollution of the water of Lake Auburn and to preserve the purity of said water, and in order to successfully pursue an exception from filtration requirements as aforesaid; and

WHEREAS, these restrictions have been developed in an attempt to achieve the public purposes described above and yet permit some recreational uses of Lake Auburn.

NOW, THEREFORE, pursuant to their lawful authority as aforesaid and based upon the record of evidence presented to them at the public hearing and in written

submissions, the Trustees of the Auburn Water District hereby make the following findings:

1. That Lake Auburn is a great pond held in trust by the State for the benefit of all citizens of the State of Maine.
2. That Lake Auburn is a public drinking water supply, pursuant to Legislative authorization, providing water to the citizens of Lewiston and Auburn and to other water customers and users within those cities.
3. The Legislature of the State of Maine has specifically authorized and delegated to the Trustees of the Auburn Water District the authority to promulgate by-laws regulating and restricting recreational and other uses of Lake Auburn as may be required to preserve the purity of the water in said Lake and to protect it as a public drinking water supply.
4. The Auburn Water District and the City of Lewiston will be excepted from the surface water filtration requirements under the Safe Drinking Water Act, provided they can demonstrate adequate measures have been created and can be enforced to preserve the purity of the water of Lake Auburn. Compliance with the filtration requirements, if the exception cannot be obtained, based on current estimates, will cost somewhere between \$20,000,000 and \$24,000,000 with annual operating costs projected at \$1,500,000 to \$2,000,000 at the expense of water consumers and ratepayers within the Lewiston and Auburn communities.

5. Reasonable recreational opportunities on Lake Auburn can be preserved with restrictions that, at the same time, will advance the goal of preserving and protecting the purity of the water in Lake Auburn and obtaining the exception from the unreasonable cost of meeting filtration requirements.

ACCORDINGLY, based on the record before them and the foregoing findings, the Auburn Water District Trustees, acting pursuant to their legal authority, hereby adopt the following By-Laws establishing Lake Auburn and Lake Auburn Watershed Restrictions and Controls:

1. There shall be and hereby are established four levels or zones of protection as follows:

Level 1                      Intake Restricted Zone

Consisting of the shoreline of Lake Auburn upland to the closest roadway and the surface of the Lake encompassed by a line between "Point of Pines" and a point southerly of the Route 4 boat launch, as shown on a map approved by the Trustees, titled "Lake Auburn Watershed Protection Zones."

Level 2                      Shoreline Protected Zone

Other remaining surface of the Lake and shoreline areas and direct tributaries of the Lake

Level 3                      Lower Watershed

The remainder of the watershed of Lake Auburn located within the city limits of the City of Auburn

Level 4                      Upper Watershed

The watershed of the Lake outside the jurisdiction of the City of Auburn

These restriction areas are more specifically identified and mapped on the official Lake Auburn and Lake Auburn Watershed Protection Zone map on file with the

Auburn Water District, which may be revised and amended from time to time by the Trustees of the Auburn Water District.

2. The specific restrictions for the protection areas identified above shall be as follows:

Protection Level 1: Intake Restricted Zone

This is the most critical area for protection since microbiological, chemical particulate, and other contaminants are most likely to reach the intake from this location. Protection Level 1 is described above and includes a 1,500 foot radius around the intake in the water plus a large area of the shoreline extending out to the closest roadways. On Lake Auburn, this Level 1 protection area allows absolutely no trespassing on District land, year-round. On land, Level 1 is the highest priority area for land acquisition or for written agreements and easements for the few remaining parcels of land not already owned by the District. The specific restrictions and prohibitions in Protection Level 1 are:

- a. All water-related activities in this area are absolutely prohibited, at all times throughout the year. The term “water-related” activity includes, without limitation, any activity in, on, or from the surface waters of the lake or the watershed, such as swimming, boating, water skiing, sailboarding, canoeing, kayaking, jet skiing, sailing, fishing, or diving, and the landing or taking off of seaplanes. Provisions shall be made to permit Zone 1 private landowners to reach Zone 2 for their personal non-commercial recreational purposes via a route deemed by the

District to minimize potential contaminants to the water near the intake structure.

- b. There shall be signs and/or buoys in the lake at regular intervals, indicating absolutely no trespassing and the penalties to be imposed within Protection Level 1.
- c. Signs shall be placed at selected locations on the shoreline, to be seen from shore, and indicating absolutely no trespassing and the penalties imposed.
- d. Any violation of these restrictions shall be subject to land use citation and complaint proceedings pursuant to the Maine Rules of Civil Procedure for any one or more of injunctive relief, restoration, mitigation, or the imposition of a maximum fine of \$2,500 for each and every violation.

Protection Level 2: Shoreline Protection Zone

This second protection zone includes the entire shoreline of the lake except the small bay downstream of Route 4 near the outlet and bay areas included within Protection Level 1. This zone extends inland to the nearest roadway. Protection Level 2 also includes all of the lake except for that included within Protection Level 1. Protection measures for Level 2 are:

- a. Seeking closure of portions or all of Spring Road, with resident access only to the southern half of the road, and limited access

only to the northern half of the road where there are no resident.

- b. Prohibition of all water-related activities, as defined above, except small recreational boats used without human contact with the water. Boats with onboard toilet and sleeping facilities are prohibited. Landing or taking off of seaplanes is also prohibited in this section.
- c. The strict enforcement of the State of Maine's "no wake" rule for all motorized boats within 200 feet of any shoreline, where boats are allowed.
- d. Any special public gathering or event which may draw attendance of 50 or more people in close proximity to (100 feet) or on the Lake, must receive approval from the District in the form of a permit at least 45 days in advance of the event. The fee for the permit shall cover all cost incurred by the District.
- e. Suitable signs shall be posted to advise the public of these restrictions and to prescribe penalties.
- f. The penalty for violation of these restrictions shall be the same as for Level 1.

This area is protected by the Lake Auburn Overlay Zoning District (adopted by the City of Auburn) and the Auburn Water District Land Use Policy already in place, as from time revised and amended. These zoning and land use policies, and the enforcement of them, are deemed to provide sufficient protection for the water supply from the adverse effects of human activities in the watershed. The Trustees reserve the enactment of additional or more specific restrictions for some time in the future.

Protection Level 4: Upper Watershed

The Trustees of the Auburn Water District are investigating the establishment of an entity or authority for the protection and control of the Lake Auburn Watershed, including those portions located in other municipalities, and shall provide technical assistance and enforcement assistance for watershed protection controls to homeowners and residents of the extended watershed area.

3. The foregoing By-Laws shall be enforced pursuant to Maine Rule of Civil Procedure 80K or in any other manner provided by law for land use ordinances, and the superintendent of the Auburn Water District is hereby designated as an officer authorized to implement and enforce the foregoing By-Laws and restrictions by all appropriate means, including without limitation by bringing legal proceedings for the enforcement thereof.
4. These By-Laws are subject to amendment from time to time in order to achieve more completely the purposes set forth above. If, and to the extent, any portion of these By-Laws is found to be in excess of the legal authority of

the Auburn Water District Trustees or unenforceable for some other reason, it is intended that the remainder be deemed severable from said invalid or unenforceable provisions and that the remaining regulations be enforced in full according to their terms.

5. The effective date of these By-Laws is January 1, 1992. They shall be reviewed by the Trustees at least once every five years to consider their continued effectiveness and necessity. The Trustees shall notify the public of such review and provide a reasonable opportunity for public comment.

Adopted August 27, 1991